

DOCUMENT RESUME

02700 - [A1812865]

[Premature Protest to Future Procurement]. B-188961. June 22, 1977. 1 pp.

Decision re: Franklin Solid Waste Service, Inc.; by Milton Socolar (for Paul G. Dembling, General Counsel).

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law Y.

Budget Function: General Government: Other General Government (806).

Organization Concerned: Department of the Army; United States Property and Fiscal Office, Montgomery, AL; Waste Away, Inc.

Authority: 4 C.F.R. 20.2.

The protester objected to the prospective failure to include a small business set-aside clause in a solicitation to be issued. The protest was premature and was not be considered on its merits. The proper time to protest would be after issuance of the solicitation but prior to the time of bid opening or the closing date for receipt of initial proposals. (Author/SC)

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DECISION



Cherkis
P.L.I.
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548**

FILE: B-138961

DATE: June 22, 1977

MATTER OF: Franklin Solid Waste Service, Inc.

DIGEST:

Request that GAO render decision as to whether future procurement should be small business set-aside is premature protest and will not be considered on merits. Proper time to protest would be after issuance of solicitation but prior to time of bid opening or closing date for receipt of initial proposals.

This is a protest by Franklin Solid Waste Service, Inc. (Franklin), against the prospective failure to include a small business set-aside clause in a solicitation to be issued by the United States Property and Fiscal Office, Montgomery, Alabama, for refuse removal services.

The record reveals that invitation for bids No. DAHA01-76-B-0034, issued September 3, 1976, as a small business set-aside was cancelled after opening when it was determined that Waste Away, Inc. (the other bidder besides Franklin), was a large business. Franklin was informed by letter dated April 19, 1976, that the services would be readvertised at a later date without the small business set-aside restriction. We have been advised by the Department of the Army that a new invitation has not been issued.

We are unaware of any jurisdictional basis for our Office to proceed with a decision in this matter. Franklin's protest is premature in that it is against the anticipated issuance of a solicitation that is not a small business set-aside. The proper time to file a protest would be after issuance of any solicitation and prior to the bid opening or the closing date for receipt of initial proposals. See section 20.2 of our Bid Protest Procedures (4 C.F.R. § 20.2 (1976)).

In view of the foregoing, we are closing our file in this matter without further action.

Milton Forster

for
Paul G. Dembling
General Counsel